

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re Matter of)	
)	
Creation of a Low Power Radio Service)	MB Docket No. 99-25
)	
Amendment of Service and Eligibility Rules)	MB Docket No. 07-172
For FM Broadcast Translator Stations)	

To: The Secretary, FCC

COMMENTS OF RADIO POWER INC.

Radio Power Inc. (“Radio Power”) by its attorneys, hereby files its Comments in this proceeding¹ with regard to the Commission’s proposed adoption of an LPFM Channel Floor for the processing of applications for new or existing FM translator stations.² Adoption of a proposed LPFM Channel Floor would prevent the licensing of new FM translator stations in or the relocation of existing translator stations to urbanized areas, resulting in the denial of improved service to the public. The Commission should not adopt this proposal or any other proposal that arbitrarily limits the ability of FM translator stations to provide service to the public. In support hereof, the following is respectfully submitted.

The *Third Further Notice* seeks to implement provisions of the Local Community Radio Act of 2010 while taking into consideration the competing interests of FM translator stations and low power FM stations (“LPFM”).³ In particular, the Commission is concerned with how to process more than 7,000 applications for new FM translator stations pending since 2003 while at the same time allowing for future LPFM stations. The Commission has proposed establishment

¹ See *Matter of Creation of A Low Power Service; Amendment of Service and Eligibility Rules For FM Broadcast Translator Stations*, FCC 11-105 (rel. July 12, 2011) (the “*Third Further Notice*”).

² The public may file comments in this proceeding by September 6, 2011. See *Matter of Creation of A Low Power Service; Amendment of Service and Eligibility Rules For FM Broadcast Translator Stations*, DA 11-1467 (rel. Aug. 29, 2011). Thus, these comments are timely filed.

³ Pub. L. No. 113-371, 124 Stat. 4072 (2011).

of LPFM Channel Floors that would limit if not outright prohibit the opportunity for new or modified translator stations to serve urbanized markets. While these proposed LPFM Channel Floors undoubtedly would winnow out the more than 7,000 pending translator applications, it would have the unintended effect of restricting the use of FM translator stations to rebroadcast AM stations and provide innovative programming, to the detriment of the public interest.

The proposed LPFM Channel Floor will prevent FM translators from providing service where the public needs are the greatest. For example, the pairing of translator stations with AM stations will help to strengthen and in some instances sustain AM stations and the programming they provide to the public. FM translator stations can make AM stations viable, especially those AM stations with limited or no power at night. This viability allows AM stations to provide local programming that otherwise might not be available to the public, such as local high school sports. Below is just one such success story.

Radio Power has been the licensee of WAMO(AM), Wilkinsburg, Pennsylvania since May 2011. As a daytime only AM station, the ability of the station to serve the public normally would be limited because WAMO is licensed to operate with 1.4 kilowatts during the day but unable to provide any service to the public during evening hours. However, Radio Power is also the licensee of FM translator station W261AX, licensed to Pittsburgh, Pennsylvania, which rebroadcasts the signal of WAMO. The combined operations of WAMO and W261AX transforms the daytime AM station into a full service station capable of serving the public interest 24 hours a day.

Radio Power has made the most of this opportunity by bringing an urban format back to the Pittsburgh.⁴ Pittsburgh has a rich history of urban radio with WAMO AM and FM programming the format for some 50 years, until 2009. The city remains headquarters for

⁴ More details about WAMO 100 may be found at the station's web site, <http://www.wamo100.com>.

Sheridan Broadcasting and American Urban Networks, the nation's largest radio program provider for African-Americans. In 2009, urban radio disappeared from the Pittsburgh airwaves when Sheridan Broadcasting sold the old WAMO(AM) and WAMO(FM) to Catholic Ministries and the stations dropped their urban formats.

Radio Power has invested nearly \$500,000 in the two facilities. It relocated its FM translator from Weirton, West Virginia to the top of the KDKA-TV tower just north of downtown Pittsburgh. In May, Radio Power purchased WPYT-AM for \$290,000 and purchased the WAMO(AM) call letters, changing WPYT to WAMO. In June, it launched the new WAMO 100 and its urban format. Without the FM translator, Radio Power would not have purchased WPYT nor brought urban radio back to Pittsburgh.

The stations employ seven full-time employees (including its General Manager and Promotions Director who worked for the old WAMO AM and FM), two part-time employees and six interns. Radio Power anticipates increasing its full-time staff to between 10 and 12 within the next year.

In addition to music, WAMO 100 has become a part of the community by participating in community events, concerts and on location broadcasts including Venture Outdoors, Imagine Charter School, Pittsburgh Pirates Community Day, Africa in the African Marketplace by Ujaama Collective, Sunday Gospel Cruise and The Shyne Awards recognizing Pittsburgh's most positive youth. The response from the public has been overwhelming and enthusiastic. The July PPM shows that WAMO 100 has a 2.0 share and more than 160,000 Pittsburghers listening each week.

Pittsburghers are able to listen to WAMO 100 because Radio Power took a unique public focused approach and moved to fill a major format void in Pittsburgh radio market, by building,

staffing and operating a full time radio station. Radio Power optimized the technical parameters and coverage of W261AX by leasing tower space for its antenna near the top of the KDKA-TV tower, one of the tallest TV towers in Pittsburgh.

This triumphant return of a heritage format to Pittsburgh could only occur because of changes to the service rules adopted two years ago that allow an FM translator station to rebroadcast the signal of a local AM station.⁵ Without the combined operations of WAMO(AM) and W261AX, Radio Power could not generate the necessary listenership and advertising revenue to make this possible. But this success story would not be possible if the Commission's proposed LPFM Channel Floor was in place when Radio Power first acquired W261AX in May 2010. If the Commission's LPFM Channel Floor was in effect in 2010, the Commission would have denied Radio Power's modification application to relocate W261AX to Pittsburgh because Pittsburgh does not have the requisite LPFM Channel Floor.

The Commission cites with approval in the *Third Further Notice* that more than 500 AM stations are rebroadcasting on FM translator stations within two short years.⁶ One can't help but wonder how many of these AM stations --- and future AM stations would be precluded from rebroadcasting on an FM translator station if the Commission adopts the LPFM Channel Floor. This is especially unfortunate in the instance of WAMO(AM) and W261AX when one considers that W261AX, with 99 watts ERP at 925 feet HAAT, covers much of metro Pittsburgh and provides service to an area that a dozen or more LPFM stations could not serve collectively.

⁵ See *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Report and Order, 24 FCC Rcd 9642 (2009) (the "2009 Translator Order").

⁶ See *Third Further Notice* at ¶36. It is encouraging that so many AM stations have undertaken such initiatives in the past two year given the current economic climate. Undoubtedly more stations will take such action when there is improvement in the economy.

But FM translator stations can do more than just rebroadcast AM stations. FM translator stations can provide new programming to a market even if the translator station cannot originate the programming.

This past spring Radio Power introduced two new music formats in economically depressed Detroit, Michigan; launching The Oasis,⁷ a unique smooth jazz format catering primarily to the African-American community and The Bone,⁸ an alternative rock format chosen to repatriate the alternative rock listener from Canadian radio station CIMX. Detroit is a city with a rich jazz heritage, whose residents lost its smooth jazz format two years ago when one of the major group owners pulled the plug on the format and switched to top 40, becoming the second such formatted station in the market.

Radio Power committed considerable resources to bring these two new formats to Detroit, investing more than \$400,000 to date and committing an additional \$1,300,000 to build, employ staff, promote and operate the two translator stations. These two translator stations employ seven full-time employees and one part-time employee to bring these new formats to Detroit; and expect increasing its staff to between 12 to 15 employees within the next 12 months.⁹

The public is able to listen to these two new formats through an exciting and innovative combination of traditional and modern broadcast technology. Radio Power took a unique public focused approach and moved to fill a major format void in the Detroit radio market, by building, staffing and operating two real full time radio stations. Then, in order to provide original,

⁷ <http://www.1047theoasis.com>.

⁸ <http://www.943thebone.com>.

⁹ In addition to music, the stations have become a part of the community by participating in community events, concerts and on location broadcasts including Green Breeze (Birmingham), a weekend long event promoting a greener way of life; Awesome Fest (Detroit), a weekend long music festival; Detroit Mower Gang, a group that cuts abandoned city lawns, Heavenly Chicken and Waffles (Detroit) and Beans and Cornbread (Southfield). The Oasis has also aired numerous public service announcements on issues ranging from home foreclosures to after school programs to empowering women to Armed Forces Relief to the American Red Cross.

LOCAL and/or unique programming on its two FM translators, Radio Power leased two previously unused and silent HD channels from independent Detroit FM station WGPR.¹⁰ Radio Power originates programming for The Oasis and The Bone on these two HD channels. The HD channels in turn are broadcast on FM translator stations W284BQ and W232CA, licensed to Detroit, Michigan.¹¹

The response from the public has been overwhelming and enthusiastic. The July, 2011 PPM shows that more than 116,000 Detroiters listen to The Oasis each week, a growth of nearly 20% from June. Weekly Arbitron PPM numbers show the audience continuing to grow with more than 155,000 Detroiters listening to The Oasis in the most current week.

The experience of Radio Power with translator stations shows that translators provide not only public interest benefits in the form of programming but also economic benefits by providing employment opportunities. In a down economy where employers are letting employees go, Radio Power has used translator stations to create viable businesses that provide jobs.¹²

Furthermore, Radio Power has other translators near other markets where it contemplates introducing similar formats catering to other underserved segments of the population. The Commission's proposed new rules would deny the public in some of these areas the opportunity to hear formats currently not available to them.

The Commission should amend its rules to allow any FM translator to rebroadcast an AM station and not only those translators holding licenses or permits as of May 1, 2009. The Commission made its determination in the *2009 Translator Order* that it is in the public interest

¹⁰ Radio Power negotiated a five-year lease with an aggregate commitment of more than \$600,000 for these two HD Channels.

¹¹ W284BQ rebroadcasts WGPR-HD2 The Oasis and W232CA rebroadcasts WGPR-HD3 The Bone. Radio Power is the licensee of W232CA.

¹² LPFM stations on the other hand largely operate with volunteer support staff.

for FM translator stations to rebroadcast AM stations. If such cross-service is in the public interest, then there is no reason for a cut-off date for cross-service. The Commission therefore should allow FM translator stations to rebroadcast an AM station, regardless of when the Commission issues the initial permit or license for the translator station.

FM translator stations provide an exciting opportunity for public service either through rebroadcasting AM stations or delivering new programming from HD Channels. In two short years translator stations have transformed over 500 AM stations across the country, better serving the public interest and helping local economies. But none of this is possible if the Commission imposes limitations on the use of translator stations that are arbitrary and capricious. The Commission should not adopt proposals that while addressing the competing concerns of applicants for new LPFM and FM translator stations may have unintended consequences on present and future operations of existing translator stations.

Respectfully submitted,

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